

## ARTICLE 12711

### LABOR MANAGEMENT RELATIONS

#### CONTENTS

##### SUBARTICLE 1. GENERAL PROVISIONS

- 1-1 Background
- 1-2 The Federal Service Labor-Management Relations Statute
- 1-3 Policies and Principles
- 1-4 Civilian Personnel Representative

##### SUBARTICLE 2. RECOGNITION OF AND DEALINGS WITH LABOR ORGANIZATIONS

- 2-1 Solicitation of Membership and Support
- 2-2 Use of Facilities
- 2-3 Furnishing Information
- 2-4 Collective Bargaining Agreement

## SUBARTICLE 1. GENERAL PROVISIONS

1-1. Background. The history of officially sanctioned unions and collective bargaining in the Federal sector dates back to 1962 when Executive Order 10988 was signed by President Kennedy. Labor-management relations continued to evolve via Executive Orders and their amendments until 1978, when the Civil Service Reform Act of 1978 (Public Law 95-454) was passed. Title VII of the Civil Service Reform Act is the Federal Service Labor-Management Relations Statute which for the first time provided statutory protection for Federal employees to "organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them." Federal agencies and unions have continued to operate under the provisions of Title VII. (R)

1-2. The Federal Service Labor-Management Relations Statute. The law provides the following rights and responsibilities for bargaining unit employees and unions:

a. Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under Title VII, such right includes the right:

(1) To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities.

(2) To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

b. A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

c. An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at:

(1) Any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(2) Any examination of an employee in the unit by a representative of the agency in connection with an investigation if:

(a) The employee reasonably believes that the examination may result in disciplinary action against the employee; and

(b) The employee requests representation.

d. Activities must inform bargaining unit employees annually of their rights to representation as shown in 1-2c above.

1-3. Policies and Principles. Labor-management relations in the Department of Defense (DOD) and the Department of the Navy (DON) shall be governed by the following policies and principles:

a. Effective labor-management relations are a basic part of the responsibility of all DOD managers, military, and civilian at all levels wherever there are employees subject to the Federal Service Labor-Management Relations Statute.

b. Delegation to local managers of authority on personnel policies, practices, and matters affecting working conditions helps to ensure meaningful employee participation and to avoid escalation of problems that should be resolved at lower levels. Therefore, such authority shall be delegated to the maximum feasible extent consistent with the need for uniformity (where such a need exists), efficiency, and effective direction and control.

c. Managers shall not interfere with the free choice of employees regarding labor organization membership and other representation matters. Under no circumstances shall managers initiate, circulate, or provide assistance in connection with the circulation of a petition to decertify a labor organization holding exclusive recognition. Nor shall they poll individual employees as to their membership in or desire to continue to be represented by such a labor organization.

d. Managers should take steps to establish positive and constructive relationships with labor organizations selected by employees to exclusively represent them. The emphasis in dealing with such organizations shall be not only on the resolution of issues and problems that arise at the worksite and during negotiations but also on the establishment of relationships and understanding that can help to prevent such problems. When disputes cannot be resolved without third-party assistance, the machinery established by the Statute, including the rules and regulations of third-party authorities, shall be appropriately complied with and utilized as expeditiously as possible in order to resolve such disputes.

e. Labor organizations that exclusively represent DOD employees have a legitimate interest in matters affecting the conditions of employment of those employees. To promote positive and constructive labor-management relationships, managers shall ensure that appropriate information concerning such matters is provided to labor organization representatives on a timely basis.

f. Managers shall ensure that the reserved management rights in 5 USC 7106(a) are retained. They must also retain the ability and authority to obtain the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the national security mission of the Department of Defense.

g. Managers shall ensure that negotiated conditions of employment promote equal employment opportunity.

1-4. Civilian Personnel Representative. The Labor/Employee Relations (LER) Department, Human Resources Office (HRO) will act as civilian personnel representative in labor-relations matters. Information concerning the Federal Labor-Management Relations Program may be obtained by contacting designated on-site personnel of the HRO or the LER Pensacola staff.

## SUBARTICLE 2. RECOGNITION OF AND DEALINGS WITH LABOR ORGANIZATIONS

### 2-1. Solicitation of Membership and Support

a. Activity employees may not be prohibited from soliciting membership or support on behalf of, or in opposition to, a labor organization on activity premises during the nonwork time of the employees involved (i.e., both those engaged in solicitation and those being solicited), provided there is no interference with the work of the activity.

b. Activity employees may not be prohibited from distributing literature on behalf of, or in opposition to, a labor organization on activity premises in nonwork areas and during the nonwork time of the employees involved (i.e., both those engaged in distribution and those receiving literature), provided there is no interference with the work of the activity.

(1) Literature posted or distributed within a DOD activity must not violate any law, applicable regulations, provisions of a negotiated agreement, or the security of the DOD activity, or contain libelous material.

(2) Labor organizations shall be considered responsible for the content of literature distributed by their representatives.

c. Subject to normal security regulations and reasonable restrictions with regard to the frequency, duration, location(s), and number of persons involved in such activities, labor organization representatives who are not employees of the activity may be permitted, upon request, to distribute literature or to solicit membership or support on activity premises in nonwork areas and during the nonwork time of the employees involved.

(1) Permission may be withdrawn with respect to any such activities that interfere with the work of the activity, or with respect to any representative who has engaged in conduct prejudicial to good order or discipline on activity premises.

(2) Where no labor organization holds exclusive recognition for the employees involved and permission is granted to one such organization for nonemployee representatives to engage in on-station organizing or campaigning activities, the same privilege shall be extended to any other requesting labor organization with equivalent status.

2-2. Use of Facilities. Where no labor organization holds exclusive recognition, activity facilities may be made available for the use of labor organizations where practicable, upon request, on an impartial and equitable basis, for such purposes as the posting of notices or membership meetings outside regular working hours. Where a labor organization holds exclusive recognition, the use of activity facilities by that organization is a proper subject for negotiation.

2-3. Furnishing Information. Exclusive representatives are generally entitled to information that is normally maintained and is necessary for the union to represent the bargaining unit. There are certain exceptions to this provision. If questions arise concerning the release of information to the union, consult with the HRO Personnel Management Specialist.

2-4. Collective Bargaining Agreement. When a collective bargaining agreement (negotiated agreement, agreement, labor-management agreement, etc.) has been negotiated between the activity and the union holding exclusive recognition for a defined unit or group of employees within the activity, due regard shall be given to the content of the agreement by both parties. Management is required to discuss and negotiate with the union in good faith on any condition of employment so far as is appropriate under Title VII of the Act or Executive Order 12871.